

OPINION SUMMARY

MISSOURI COURT OF APPEALS EASTERN DISTRICT

PATRICIA A. WILSON,)	ED104570
)	
Appellant,)	Appeal from the Circuit Court
)	of Jefferson County
v.)	11JE-CC01063
)	
DURA-SEAL AND STRIPE, INC.,)	Honorable Mark T. Stoll
)	
Respondent.)	Filed: March 21, 2017

Appellant Patricia A. Wilson (Wilson) appeals the trial court's summary judgment in favor of Respondent Dura-Seal and Stripe, Inc. (Dura-Seal) on Wilson's negligent construction claim. Wilson argues that summary judgment was improper because genuine issues of material fact exist regarding whether Dura-Seal was in control of the premises at the time Wilson was injured.

AFFIRMED.

Division Four Holds: There is no genuine factual dispute in the summary judgment record regarding control of the premises. Because the School District accepted Dura-Seal's work, any defect in construction was in plain view, and there was no evidence in the summary judgment record that Dura-Seal agreed to extend its liability to third parties past the date of acceptance, Wilson cannot hold Dura-Seal liable for her injuries even given evidence of negligent construction here. Further, given the binding precedent of the Missouri Supreme Court, we are bound to enforce the acceptance doctrine.

Opinion by: Gary M. Gaertner, Jr., J.
James M. Dowd, P.J., and Kurt S. Odenwald, J., concur.

Attorney for Appellant: Heidi L. Leopold
Attorneys for Respondent: Rebecca L. Van Court, Joseph F. Callahan

<p>THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.</p>
